

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the Matter of the Complaint of

FRANK J. DIEBER, as owner of a 1988 20-foot
Formula SR1 vessel for Exoneration From or
Limitation of Liability,

Petitioner.

Civil Action No.: 08 CV 2042 (CLB)

**CLAIM OF AXIS REINSURANCE
COMPANY a/s/o TARA PINAND
AGAINST FRANK J. DIEBER, SR.**

CLAIMANT AXIS REINSURANCE COMPANY a/s/o TARA A. PINAND ("Axis Reinsurance"), by and through its attorneys, PISCIOTTI, MALSCH & BUCKLEY, P.C., alleges the following causes of action against Petitioner:

1. That the alleged injuries and damages to Angela M. Norcia and other persons arising from the incident on Greenwood Lake on or about June 29, 2007 were sustained as the direct result of Petitioner Frank J. Dieber's 1988 twenty-foot Formula SRI Vessel's unseaworthiness and/or Petitioner Frank J. Dieber's negligence, reckless, malice, willful, or wanton misconduct and breach of maritime duties.
2. That as the marine liability insurer of Tara A. Pinand, on or about November 27, 2007, Axis Reinsurance issued a check to Tara A. Pinand payable for \$13,000, which represented the insured value of the boat and trailer as it was declared a total constructive loss.
3. That Axis Reinsurance paid \$1,419.00 in expenses to a surveyor and salvage company in connection with the above-described loss and received \$1,200.00 for the sale of the salvage, which equals \$219.00 in lost expenses.

4. That as a result of this incident, Tara A. Pinand, by her subrogor, was damaged in the sum of \$13,219.00, plus interest from November 27, 2007.

WHEREFORE, CLAIMANT AXIS REINSURANCE demands judgment against the defendant in the sum of \$13,219.00, together with interest and costs and disbursements of this action.

Dated: April 21, 2008
White Plains, New York

Respectfully submitted,

PISCIOTTI, MALSCH & BUCKLEY, P.C.

By: s/ Jeffrey M. Malsch
Jeffrey M. Malsch (JM 3694)

444 Hamilton Avenue, Suite 1102
White Plains, New York 10601
Telephone: (914) 287-7711
Facsimile: (914) 287-7715

Attorneys for Claimant Axis Reinsurance
Company a/s/o Tara A. Pinand.

TO: Mr. James E. Mercante, Esq.
RUBIN, FIORELLA & FRIEDMAN LLP
Attorneys for Petitioner
292 Madison Avenue, 11th Floor
New York, New York 10017
(212) 953-2381

Mr. Thomas P. Giuffra, Esq.
BARTON BARTON & PLOTKIN, LLP
Attorneys for Angela Norcia
420 Lexington Avenue
New York, New York 10170
(212) 687-6262

Mr. Joseph P. Petrizzo, Esq.
DePROSPO, PETRIZZO & LONGO
Attorneys for Frank J. Dieber, Jr.
42 Park Place
Goshen, New York 10924
(845) 294-3361

Mr. Mario Batelli, Esq.
FOSTER & MAZZIE, LLC
Attorneys for Claimant Tara Pinand
10 Furler Street
Totowa, New Jersey 07511
(973) 785-4000

CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System which will send notification of such filing to attorneys of record, registered users of the CM/ECF system:

Mr. James E. Mercante, Esq. (at jmercante@rubinfiorella.com)

Mr. Yoon Sang (Robert) Han, Esq. (at rhan@rubinfiorella.com)

RUBIN, FIORELLA & FRIEDMAN LLP

Attorneys for Petitioner

292 Madison Avenue, 11th Floor

New York, New York 10017

Mr. Thomas P. Giuffra, Esq. (at tgiuffra@bartonesq.net)

BARTON BARTON & PLOTKIN, LLP

Attorneys for Angela Norcia

420 Lexington Avenue

New York, New York 10170

Mr. Mario Batelli, Esq. (at mariobatelli@fostermazzielaw.com)

FOSTER & MAZZIE, LLC

Attorneys for Claimant Tara Pinand

10 Furler Street

Totowa, New Jersey 07512

I further certify that on April 21, 2008, I served the foregoing on the above and below-listed persons and/or entities by depositing same into the sole possession of the United States Postal Service in a sealed envelope addressed to non-registered users of the CM/ECF System, with postage pre-paid:

Mr. Joseph P. Petrizzo, Esq.

DePROSPO, PETRIZZO & LONGO

Attorneys for Frank J. Dieber, Jr.

42 Park Place

Goshen, New York 10924

s/ Jeffrey M. Malsch

Jmalsch@pmblegalfirm.com